

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ANGELA LYNETTE TOUSSAINT
TX-1334182-L (EXPIRED)

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DOCKETED COMPLAINT NO.
08-175

FINAL ORDER

On this 26th day of August, 2009, the Board considered the above-noted matter.

After proper notice was given, the above case was heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. The proposal for decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No such exceptions or replies were filed.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of the proposal for decision, attached as Exhibit A hereto, adopts the findings of fact and conclusions of law of the ALJ contained in the proposal for decision and incorporates those findings of fact and conclusions of law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that the Respondent pay to the Board an administrative penalty of \$2,000.00. Payment of the ADMINISTRATIVE PENALTY must be by certified funds, and must be tendered within TWENTY DAYS of the date Angela Lynette Toussaint is notified of this Final Order.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Board and Signed this 26th day of August, 2009.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board

EXHIBIT A

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

June 15, 2009

Loretta DeHay
Interim Administrator
Texas Appraiser Licensing and Certification Board
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

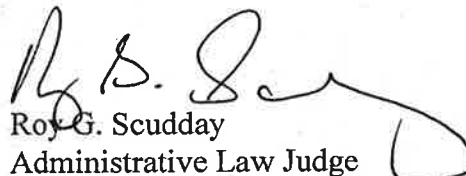
**RE: Docket No. 329-09-3226.ALC; Texas Appraiser Licensing and Certification Board
v. Angela Lynette Toussaint**

Dear Ms. DeHay:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,


Roy G. Scudday
Administrative Law Judge

RGS/ap
Enclosure

xc: Angela L. Toussaint, 6515 Sanger Ave. #1, Waco, TX 76710 - **VIA REGULAR MAIL**
Troy Beaulieu, 1101 Camino La Costa, Austin, TX 78752 -- (with 1 hearing CD dated 06/09/09; TALCB Exhibits 1-4) --
VIA-INTER-AGENCY

SOAH DOCKET NO. 329-09-3226.ALC

**TEXAS APPRAISER LICENSING AND
CERTIFICATION BOARD,
Petitioner**

V.

**ANGELA LYNETTE TOUSSAINT,
Respondent**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Appraiser Licensing and Certification Board (TALCB) originally brought this action seeking the suspension or revocation of the appraiser certification held by Angela Lynette Toussaint (Respondent), as well as the assessment of an administrative penalty. The basis for this action was Respondent's alleged failure to comply with the 22 TEX. ADMIN. CODE (TAC) §§ 153.20(a)(2) and 153.22. Because Respondent's certification has expired, Staff withdrew its claim for suspension. The Administrative Law Judge (ALJ) recommends that Respondent be assessed an administrative penalty in the amount of \$2,000.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened June 9, 2009, before ALJ Roy G. Scudday in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Troy Beaulieu, attorney, who moved for a default based on Respondent's failure to appear.

Staff offered competent evidence establishing jurisdiction and that appropriate notice of the hearing was provided to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.501, the ALJ granted Staff's motion for default and recommends that Respondent be assessed an administrative penalty in the amount of \$2,000.

III. FINDINGS OF FACT


1. Angela Lynette Toussaint (Respondent) held a certificate as an appraiser issued by the Texas Appraiser Licensing and Certification Board (TALCB).
2. On March 16, 2009, staff of the TALCB (Staff) sent a Statement of Charges to Respondent proposing suspension or revocation of the certificate referred to in Finding of Fact No. 1.
3. On March 23, 2009, a notice of hearing was mailed to Respondent, by certified mail at 6515 Sanger Avenue #1, Waco, TX 76710, the address of record for Respondent in the files of the TALCB. The notice was returned "Attempted-not known."
4. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
5. The hearing notice contained the following language in capital letters in at least 12-point, boldface type: "FAILURE TO APPEAR AT THE HEARING WILL RESULT IN THE ORIGINAL STATEMENT OF CHARGES BEING ADMITTED AS TRUE, THE RELIEF SOUGHT BY TALCB GRANTED, AND A DEFAULT JUDGMENT BEING TAKEN AGAINST YOU."
6. The hearing convened June 9, 2009, in the William P. Clements Building, 300 West 15th Street, Austin, Texas.
7. Respondent did not appear and was not represented at the hearing. TALCB staff was represented by attorney Troy Beaulieu.
8. Staff moved for a default, which was granted.
9. On or about May 14, 2008, TALCB staff notified Respondent by mail at her last known address indicated in TALCB records of a complaint, and provided her the opportunity to respond to the allegations, and requested that Respondent provide certain documentation to Staff.

10. As of the present date, Respondent has failed to answer inquiries and provide certain documents related to the complaint despite a written request that she promptly do so.
11. Petitioner's certificate expired on September 30, 2008.

IV. CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. (Code) ch. 1103.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Notice of the complaint and of the hearing on the merits was provided as required by Code § 1103.502 and by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. Based on Findings of Fact Nos. 9-10, Respondent violated 22 TAC §§ 153.20(a)(2) and 153.22.
5. The Board is authorized by 22 TAC § 153.20(b) to determine the appropriate penalty for a violation of 22 TAC § 153.20(a).
6. Respondent should be assessed an administrative penalty in the amount of \$2,000.

SIGNED June 15, 2009.



ROY G. SCUDDAY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS